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REMARKS/ARGUMENTS

1. Allowed Claims 1-3 and 19 remain pending in the above-identified Application.

2. Allowed Claim 3 is being canceled without waiver or prejudice, and subject to the right to file a divisional application thereto.

3. Allowed Claim 2 is being amended. Support for the proposed amendment is found in the specification as originally filed; hence, as the Examiner will appreciate, no new matter is being added by the proposed amendment.

4. Item 3 of the above-noted Examiner's Comment provides that an acceptable deposit/written declaration (of public availability without restriction), for the microorganisms recited in pending allowed Claims 2 and 3, be made available on or before the payment of the issue fee.

Pending allowed Claim 3 is now being canceled; hence, after entry of the amendment hereinabove, Examiner's Comment in Item 3 will only remain in respect of pending allowed Claim 2.

Each of the specific microorganisms recited in now pending allowed Claim 2 is publicly available without restriction, such as by ordering these microorganisms from current catalogs of the ATCC, the NRRL, etc., as provided in specification as originally filed. Moreover, there is no reasonable basis to believe that the recited microorganisms will cease to be available at least during the enforceable life of the patent issued on the present Application; hence, current availability satisfies the requirement. Furthermore, the Examiner, during the instant prosecution (see Office Action mailed April 14, 2003), rejected, under 35 U.S.C. §112, only the recited "mutants" of originally filed Claim 3, for lack of availability to the public, not the microorganisms recited by deposit number.

Notwithstanding the current availability of the recited microorganisms, to further prosecution, pending allowed Claim 2 is now being amended. Specifically, after entry of the amendment hereinabove, Claim 2 will recite *Absidia repens* ATCC No. 74481. As noted in the specification as originally filed (see page 20, lines 9-15), *Absidia repens* ATCC No. 14849 was deposited on January 13, 1999 with the ATCC

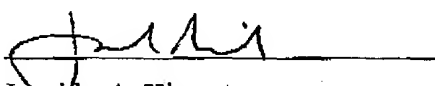
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by the assignee under the Budapest Treaty, and assigned ATCC Deposit No. 74481. As also noted in the specification as originally filed (see page 20, lines 15-17), all restrictions on the availability to the public of the microorganism culture so deposited will be irrevocably removed upon the issuance of a patent from the specification of the present invention. Hence, as the Examiner will appreciate, no new matter is being added by the proposed amendment. It should be noted that *Absidia repens* ATCC No. 74481 is currently available to the public by virtue of its being recited in an earlier filed, now issued U.S. Patent, where the specification of that patent noted that all restrictions on the availability to the public of the microorganism culture so deposited will be irrevocably removed upon the issuance of a patent from the specification of the present invention. Entry of the amendment hereinabove to pending allowed Claim 2 is respectfully requested.

5. Applicants believe that the amendments hereinabove are fully responsive to and satisfy Item 3 of the above-noted Examiner's Comment. Therefore, entry of the amendments hereinabove is respectfully requested. Such prompt and favorable action is earnestly solicited. Should any further fees be required for the foregoing amendments, please charge deposit account No. 16-1445.

Respectfully submitted,

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